

# RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON REGULAR Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, September 27 7:00 p.m. 20 10

## CALL TO ORDER:

1. The council meeting was called to order, Monday, September 27, 2010 at 7:00 p.m. by President of Council Daryl Revoldt.

## OPENING PRAYER:

2. The opening prayer was delivered by President of Council Daryl Revoldt.

## PLEDGE OF ALLEGIANCE:

3. All present recited the Pledge of Allegiance.

## ROLL CALL:

4. Mr. Revoldt: Clerk, would you please call the roll.

The following members of Council responded to roll call: Davies, DeOrio, Foltz, Kiesling, Peters, Revoldt and Snyder. Also present were: Mayor Held, Director of Administration/Engineer Benekos, Director of Law Nilges, Superintendent of Permits & Inspection Hampton, and Clerk of Council Kalpac. Director of Finance Zumber and Director of Economic Development Bowles were not present for the meeting,

## CONSIDERATION

5. Council Meeting Minutes – September 13, 2010

Mr. Revoldt: Council has for its approval this evening, minutes from its meeting of September 13, 2010. Are there any questions or amendments to those minutes?

Mr. DeOrio: Mr. President, I would move that we approve the council meeting minutes as submitted.

Mrs. Kiesling: Second.

Mr. DeOrio moved and Mrs. Kiesling seconded to approve the council meeting minutes as submitted. All members present voting:

Yes: DeOrio, Foltz, Kiesling, Peters, Revoldt, Snyder, Davies.

No: 0

## COMMITTEE MINUTES:

6. Mr. Revoldt: Council also has for its approval this evening committee minutes from executive session for personnel held on September 13<sup>th</sup>; and regular committee minutes for Ordinance, Rules and Claims; and Water, Sewer and Rubbish meetings held on September 20<sup>th</sup>. Are there any questions or amendments to those minutes?

Mr. DeOrio: Mr. President, I would move that we approve the committee minutes as submitted.

Mr. Davies: Second.

Mr. DeOrio moved and Mr. Davies seconded to approve the executive session and committee report minutes as submitted. All members present voting:

Yes: Foltz, Kiesling, Peters, Revoldt, Snyder, Davies, DeOrio.

No: 0

**Executive Session – Personnel & Safety Committee:** Please refer to the minutes on file in the Council Office of the Executive Session for Personnel & Safety Committee meeting held on September 13, 2010.

**Ordinance, Rules & Claims Committee:** Please refer to the minutes on file in the Council Office of the Ordinance, Rules & Claims Committee meeting held September 20, 2010.

**Water, Sewer & Rubbish Committee:** Please refer to the minutes on file in the Council Office of the Water, Sewer & Rubbish Committee meeting held September 20, 2010.

7. Voice Vote – Liquor Option re Zepp's Pizza

Mr. Revoldt: At this time I would like to entertain a motion from Council to ...

## RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON REGULAR

Meeting

DAYTON LEGAL BLANK INC. FORM NO. 10148

Held Monday, September 27 7:00 p.m. 20 10

Mr. Foltz: Mr. President, before you make the motion it was discussed we didn't actually have any discussion on the voice vote, the liquor option. Per your guidance here, I don't know if we want the public to use public speaks to have a comment on this before we have a voice vote.

Mr. Revoldt: Okay. That's a fair question. Is there anyone here who wishes to comment on the liquor permit requested by Zepp's Pizza? Mr. Osborne.

Chuck Osborne: Will this preempt me from speaking later?

Mr. Revoldt: No.

(Laughter)

Mr. Osborne: Chuck Osborne. 307 Fairview Street SE, North Canton, Ohio. I'm glad I provided some amusement. We all need to laugh sometimes. I just come up to state that I am not in favor of the Zepp's liquor location. I thought this City was dry. We're getting permeated more and more with locations throughout the city. It kind of makes a joke of the fact that we're supposedly a dry city. I haven't done any research. I don't know how many locations throughout the city. There's actually one right across the street I guess at the Marathon. I understand this is near a park. Did you ever determine Mr. Snyder whether it's the tennis courts over there on Schneider?

Mr. Snyder: It's the tennis courts and a small I think there's a swing set.

Mr. Osborne: I just not am in - afraid - in favor of sending my children or grandchildren into pickup a couple pizzas and some beer along the way. Anyway, that's all I have to say.

Mr. Revoldt: Okay. Thank you. Is there anyone else who wishes to comment? Mr. DeOrio.

Mr. DeOrio: I just wanted - I had some questions in the interim between the last meeting and this meeting and it was cleared up for me. And so I just wanted to say that one of the parts that was confusing to me was why was this before Council? I've only been on Council a short time and the liquor options that have been on the ballot haven't been ones that have come through this procedure. But the reason it is as it was explained to me and if I mess it up please correct me, but because of the location being so close to a park, the - actually the State of Ohio Liquor Control Board or ...

Mr. Revoldt: Yes, correct.

Mr. DeOrio: initiated this procedure by delivering I guess to Mr. Hampton or to somebody some sort of notice that ...

Mrs. Kiesling: Administration.

Mr. DeOrio: To the Administration. Thank you. That this is first step in the process. The Zepp's would still have to take this, get signatures on petitions in order to get it on a ballot, whenever that ballot might be, sometime next year if they proceed with it. So this doesn't waive that requirement that they have to do that. Thank you.

Mr. Revoldt: Just to pick up the regulations require notification to the City if a park is within 500 feet of an application. This is approximately 332 feet. And then the municipality has two options: One to object or one not to object. And as Mr. DeOrio has indicated, ultimate authorization rests with the voters and this matter would make its way to the ballot probably in the spring I would assume. So are there any other questions?

Mr. Davies: To clarify, what they're asking for is a C1 and D1 and D6 License. C1 is packaged beer in containers for carryout only. D1 is packaged wine in a container for carryout only, not to be consumed on premises. D6 is to allow them to sell on Sunday. And that's what they're asking for. So it's for carryout to go along with their pizza. My guess is they're trying to get their profits up because nobody's making any money anymore.

Mr. Revoldt: And it's good pizza. Okay. So, ready to go? Okay. So what I'd like to do is if we have a motion to exercise Council's option not to object to the liquor permit sought by Zepp's Pizza.

## RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON REGULAR Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, September 27 7:00 p.m. 20 10

Mr. DeOrio moved and Mr. Davies seconded to exercise Council's option **not to object** to the liquor permit sought by Zepp's Pizza. All members present voting:  
 Yes: Kiesling, Peters, Revoldt, Snyder, Davies, DeOrio, Foltz.  
 No: 0

## RECOGNITION OF VISITORS:

8. Mr. Revoldt: Now, let's go back to our normal agenda. Public speaks – recognition of visitors. Is there anyone here who wishes to address the Council? Mr. Osborne. And before you begin I will remind you that we are observing the five minute rule. And if you would like to – if you have prepared comments, you might summarize them very quickly and present them to the Clerk of attachment. Go.

Mr. Osborne: I'll try to be under that time. I wish we had a clock out here so we know when...

Mr. Revoldt: I'll give you a minute's notice.

Mr. Osborne: Two weeks ago I made comparisons between the compensation rate paid to the North Canton Law Director and the rates paid by other governmental agencies in Stark County and asked why North Canton cannot do as well as those other Stark County governments. North Canton is paying \$62.50 per hour for the services of an attorney to fill the role of Law Director while the Stark County Prosecutor's office pays \$39.14 per hour to its most senior attorney. Nearly two dozen other attorneys at the prosecutor's office earn less than \$30.00 per hour. The City of Canton, likewise, has three full-time Assistant Prosecutors on staff that are paid an hourly rate of \$20.10 per hour. Why can't the citizens of North Canton be afforded legal services from its Law Director at equitable hourly rates? Furthermore, North Canton needs a law director who is available to work more than the currently required sixteen hour work week and I believe the following clearly supports my argument. One of - one, the request in Ordinance No. 73-10, in its second reading tonight, to create the position of Assistant Director of Law, shows that the current law director cannot do the job in a sixteen-hour work week. Two, the current law director has already billed the taxpayers of North Canton for \$4,128.84 for hours over and above his sixteen-hour week. Those charges for legal services are over and above the Law Director's annual salary of \$49,000. Again, an indication that the current law director cannot do the job in a sixteen hour work week. Third, over the last five years North Canton has paid out \$414,870.41 for legal professional services. Adding in the \$245,000 paid to the law director for each of the last five years at \$49,000 per year results in legal costs of nearly \$660,000. Over the last five years, North Canton has averaged spending nearly \$132,000 per year for legal services. In the last eighteen months alone, North Canton has spent more than \$275,000 for legal services. North Canton needs a full-time law director at a fair salary, not an assistant law director as Ordinance No. 73-10 proposes. The Law Director's salary was more than doubled seven years ago and justified then by the elimination of the position of Assistant Director of Law. Now the position is being resurrected. In brief discussions in support of the Ordinance No. 73-10 to create the position of Assistant Law Director, Superintendent Tom Hampton stated that the City has about a dozen violators of zoning laws that habitually ignore letters from the City and that there are four or five cases ready to cite to Mayor's Court. Why has this effort been delayed? Two weeks ago I stated, and I quote, "one might wonder why the City failed to initiate such enforcement of its zonings laws beginning early in 2005 when Earle Wise took over as City Administrator. Mr. Wise is an attorney and worked for many years as a Stark County Prosecutor before coming to North Canton. Given that Mr. Wise is still on the City's payroll at a salary of \$70,000 per year, why can't Attorney Wise assist Law Director Nilges in the prosecution of the zoning violators in North Canton Mayor's Court?" I am still awaiting a valid response to that question. Prosecution of zoning violators in North Canton Mayor's Court is likely to come at an additional financial costs to the city if Ordinance No. 73-10 is enacted. I say this for the following reasons: One, it is unlikely that fines will be – will cover the Assistant Law Director's anticipated two hours on each case; two, if a case is appealed to Canton Municipal Court, the fine is even less likely to cover the Assistant Law Director's time. And for everyone's information, Ohio Revised Code 1905.25 states and I quote, "...an appeal from the mayor's court to the municipal court or county court shall proceed as a trial de novo." This means that the case starts fresh as if there had been no previous hearing before a judge requiring more time of the Assistants Law Director. Three, if the zoning violator fails to pay the court ordered fine, do you jail the individual at added expense? There are other expenses related to prosecution of these zoning violations that have not been explained. Ohio Revised Code 1905.26 allows for the payment of witness fees from the treasury of the municipal corporation. Is the City prepared for expenses such as these if they arise? Does the City have clerical help who know how to send out court summons and subpoenas? Is this expense being factored into the total cost of prosecution? People need to know all of these costs and not just be given a snapshot of the costs to prosecute violators in Mayor's Court. The bottom-line is this North Canton must maximize resources available to it now and minimize the costs of prosecuting zoning violators. The City can do this by utilizing former City Administrator Earle Wise who is already on the City's payroll. The City also must restructure the position of City Law Director for a full-time position at a fiscally responsible salary for the citizens of

## RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON REGULAR

Meeting

DAYTON LEGAL BLANK, INC. FORM NO. 10148

Held Monday, September 27 7:00 p.m. 20 10

North Canton. North Canton must get control of the cost of government and this is a good place to start. If this Council would proceed in that manner and get control of its legal costs, to use the Council President's words from two weeks ago, "that would be good stewardship and a good use of the public resources." Thank you.

## OLD BUSINESS:

Mr. Revoldt: Thank you. Is there anyone else who wishes to address the Council this evening? Seeing none, let's move onto to old business. Item 9, a motion to read by title only, third reading of Ordinance No. 63-10.

9. Mr. Davies moved and Mr. DeOrio seconded to **read by title only, third reading** of Ordinance No. 63-10. All members present voting:

Yes: Peters, Revoldt, Snyder, Davies, DeOrio, Foltz, Kiesling.

No: 0

**Ordinance No. 63-10 – 3<sup>rd</sup> Reading – Community & Economic Development**

An ordinance authorizing the Mayor of the City of North Canton, through the agent for the City of North Canton ("City"), Christopher J. Goldthorpe, to proceed with the annexation to the City of Permanent Parcel No. 55-01515, 55-01429 and 55-00157, said parcels owned by the City and currently situated in Plain Township.

Mr. Revoldt: Mrs. Kiesling.

Mrs. Kiesling: This is the final reading of our annexation of the property beside the ball fields.

Mr. Revoldt: May I have a motion to adopt the third reading of Ordinance 63-10.

Mr. Davies moved and Mr. DeOrio seconded to **adopt the third reading** of Ordinance No. 63-10. All members present voting:

Yes: Revoldt, Snyder, Davies, DeOrio, Foltz, Kiesling, Peters.

No: 0

10. Mr. Revoldt: Item 10, a motion to read by title only, second reading of Ordinance No. 73-10.

Mr. DeOrio moved and Mr. Peters seconded to **read by title only, second reading** of Ordinance No. 73-10. All members present voting:

Yes: Snyder, Davies, DeOrio, Foltz, Kiesling, Peters, Revoldt.

No: 0

**Ordinance No. 73-10 – 2<sup>nd</sup> Reading – Personnel & Safety**

An ordinance establishing a rate of compensation and the position of Assistant Director of Law/Mayor's Court Prosecutor for the City of North Canton and declaring the same to be an emergency.

Mr. Revoldt: Mr. Peters.

Mr. Peters: This is the second reading. Are we going to pass tonight on an emergency or are we going to have a third reading?

Mr. Revoldt: We can – we can suspend – I think the plan was to suspend the rules and adopt this this evening.

Mr. Peters: Okay. Just a couple comments first. You have a target list of offenders that you want to go after. Can we – can something be presented to Council after say the first five to show us where we're at, how much we have in hours, how much we've collected in fines and you know just kind of give us a snapshot of the you know the first phase moving forward with this.

Mr. Nilges: Absolutely.

Mr. Peters: Okay. Alright. Jon...

Mr. Snyder: Mr. Chairman, help me if I'm not misunderstanding this. In this particular procedure it was my understanding that the maximum amount of time allowed per case is two hours. So that would be at the very most \$80. Is that correct?

Mr. Nilges: Yea.

## RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON REGULAR Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, September 27 7:00 p.m. 20 10

Mr. Snyder: If it was court. But the prep time is at \$30 ...  
Mr. Nilges: Right.

Mr. Snyder: So it's between 60 and \$80 per case.

Mr. Nilges: It's more likely to be at the \$30 an hour rate as well. For instance if we did a zoning violation – if we – we would assemble the case, bring it in, cite it to Mayor's Court. If there was an appeal it can go to the Canton Municipal Court where we have already a contract in place with Canton that we've already signed up for until 2011 where we would have – it would be prosecuted through the Canton Municipal Court in Canton Municipal Court at absolutely no additional cost to the City. We would recoup the fine. We would also get court costs for the initial arraignment here. So he mentions you know appeals – court or to Canton Municipal Court, that's covered by our current existing contract. So that would be at absolutely no additional cost to us.

Mr. Snyder: My statement is though, it's – am I to understand the average, we're thinking although the fines could go to \$1,000 in Mayor's Court, we're thinking of around \$100 fine plus costs...

Mr. Nilges: \$150 fine.

Mr. Snyder: \$150 plus a \$60 court cost which would be \$230 to which our prosecutorial expense should not at the very most could be \$80.

Mr. Nilges: That would be the expectation.

Mr. Snyder: At the very most. So at that point that leaves us roughly with \$180 gross to the good.

Mr. Nilges: Right. And you've got to remember too, I mean there'll be a number of citations. Not everybody is going to be contesting. Some people will just show up with a checkbook and an apology. You know that's not going to be the case with every violator, but that will be a percentage of those...

Mr. Snyder: Well the only relief to appeal is to Municipal Court. They can't go higher than that. Correct?

Mr. Nilges: They can go higher than that but the good news is under our agreement with the Canton Prosecutor's Office we can go to the Supreme Court and they pay for it.

Mr. Snyder: On their nickel.

Mr. Nilges: On their – on the nickel we've already committed to paying through 2011.

Mr. Snyder: Okay. That's all I needed. Thank you Mr. Chairman.

Mr. Revoldt: You know I think what we've got here to your question is we were – certainly the first time in my recollection, moving toward a more aggressive housing code enforcement. I think all of us around this table and many in the audience would agree that this is a subject to which we need to pay attention. This is an experiment and we're going to see if it works. And if it doesn't or at the point at which we're not comfortable, we're going to bring it back and we're going to – we'll do what every other business does we'll reassess the situation and perhaps move in a different direction. So I don't think we're bound by five cases. If we don't like the way the first couple go then I think we can come back and we'll take another look at it.

Mr. DeOrio: If I could, since I was a no vote on it before, would like an opportunity to talk a little bit about it. Part of the reasoning that I had in voting against it was you know I wanted – I was always concerned about the end gain. You know where do we go, what happens if it turns out to be the worst case scenario. You know we don't get resolution in Mayor's Court and it has to go to another level. So I know the Law Director's worked hard on this and has made a lot of phone calls throughout the City Hall in Canton. I know because after they talked to Hans, they called me. So – and then Hans and I spoke today and I think we got – I think he's got a better handle on it today than we had a week ago, and I'm glad of that. Because what we found is that what he said is true, that from the prosecutorial cost standpoint that's already been paid for through our contract through 2011. From the standpoint of the court's cost, in the criminal side, any of the fines that would be levied would pass to North Canton. The only miscellaneous cost would be like for a witness fee and I know Mr. Osborne mentioned that. But you know the issuing the subpoena or issuing the actual summons would be handled by the court, that's how we do all of our cases. So there – it is as you said, there's very little cost to it in the end game. And I suspect that there'll probably be some that try to do that – appeal it just for the sake of delay if nothing else. I see – we see that a lot in the court. So I think it's much better and I'm prepared to vote the other way on it tonight because it's

## RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON REGULAR

Meeting

DAYTON LEGAL BLANK, INC. FORM NO. 10148

Held Monday, September 27 7:00 p.m. 20 10

more clearer to me where we're going with it and that the cost isn't going to run into something outlandish. So I think that's good. Now of course you know when you get before a judge they can impose anything that they want and that's up to them but in talking with you know some of the other cases that flown – that have gone through the court system from the City of Canton, you know there's very few that are getting off with slaps on the wrists. You know they take it very seriously in Canton about their housing code and I don't think that they would treat it here any different.

Mr. Revoldt: Well I think that you know Marcia has been a long advocate of a more expansive housing code. And I know that she and Hans and Tom have all been talking about some additional ordinances to support that. So this is really again the precursor of a more ...inaudible... And we'll just - we can budget it. You know I mean that's the other option frankly, is that we can create a line in the Law Department's budget for this and you can slap a limit on it and we have them – have the department come back to us at some point next year.

Mr. DeOrio: And likely the first – if you handle the first dozen cases and even if you end up in a situation where it costs – where it's not from a business standpoint we would say it's not cost effective. But you know we're not in a business setting there's some things the government does that were not designed to make a profit on. This is one of them. But if we take the longer view by getting tough and disciplined with these first ones, that we have less of them later ...  
Mayor Held: Right.

Mr. DeOrio: and that makes a better environment for the City and lowers our cost in the long run.

Mr. Revoldt: And who's to say that getting rid of a real housing problem isn't worth a couple hundred bucks in terms of legal fees even if it's in the red. I think that's something we want; it's in the community's interest. Any other comments or questions regarding this matter? Seeing none then may I have a motion to adopt the second reading of Ordinance 73-10.

Mr. Davies moved and Mr. DeOrio seconded to **adopt the second reading** of Ordinance No. 73-10. All members present voting:

Yes: Davies, DeOrio, Foltz, Kiesling, Peters, Revoldt, Snyder.

No: 0

Mr. Revoldt: Motion to suspend the rules for Ordinance No. 73-10.

Mr. Davies moved and Mr. DeOrio seconded to **suspend the rules** for Ordinance No. 73-10. All members present voting:

Yes: DeOrio, Foltz, Kiesling, Peters, Revoldt, Snyder, Davies.

No: 0

Mr. Revoldt: Motion to adopt under the rules as suspended Ordinance 73-10.

Mr. Davies moved and Mr. DeOrio seconded to **adopt under suspension of the rules** Ordinance No. 73-10. All members present voting:

Yes: Foltz, Kiesling, Peters, Revoldt, Snyder, Davies, DeOrio.

No: 0

## NEW BUSINESS:

11. Mr. Revoldt: Moving on to new business, Item 11, a motion to read by title only, first reading of Ordinance 75-10.

Mr. Davies moved and Mr. DeOrio seconded to **read by title only, first reading** of Ordinance No. 75-10. All members present voting:

Yes: Kiesling, Peters, Revoldt, Snyder, Davies, DeOrio, Foltz.

No: 0

**Ordinance No. 75-10 – 1<sup>st</sup> Reading – Water, Sewer & Rubbish**

An ordinance authorizing the Director of Administration of the City of North Canton to apply for and to enter into a 2011 Recycling Makes Sense Grant Agreement by and between the City of North Canton and the Stark-Tuscarawas-Wayne Joint Solid Waste Management District for the purpose of accepting and utilizing the grant to provide funding for portions of the recycling program, and declaring the same to be an emergency.

Mr. Revoldt: Mr. Davies.

## RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON REGULAR Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, September 27 7:00 p.m. 20 10

Mr. Davies: This is a grant I believe we get every year. And probably the thing to do is let the Director of the Stark-Tuscarawas-Wayne Joint Solid Waste Management District explain.

Mayor Held: Yes, this is a grant that we received for a number of years. And I think at least the past 7 or 8 years. And what it does is we get \$45 a ton because of our program for every ton of recyclables that we collect in the City of North Canton which really helps us to offset some of our expenses which we use to purchase bins – and recycling bins which we give out at no charge to the residents. And we could also use that for the purchase of leaf bags. Especially when you consider that the yard waste collection grant is coming to an end this year. So if we want to continue with that program we'll either have to fund it out of our general fund for the leaf bags or I'm sure we could use the Recycling Makes Sense Grant for that also.

Mr. Davies: Any questions from the Committee or Council?

Mr. Revoldt: What's – I do have one. What's our leaf bag acquisition cost, roughly?

Mayor Held: Isn't it like 20?

Mr. Benekos: I think it's close to \$30,000.

Mayor Held: Is it 30 – yea, 30,000. The thing is the number just keeps going up. And we're pretty strict with - the amount that we give out is 25 per household and they have to be on the – our waste route. So you can't be from outside the municipality to get that. And we always run out every year too.

Mr. Davies: Other questions? Then I would move that we adopt.

Mr. DeOrio: Second.

Mr. Davies moved and Mr. DeOrio seconded to **adopt the first reading** of Ordinance No. 75-10. All member present voting:

Yes: Peters, Revoldt, Snyder, Davies, DeOrio, Foltz, Kiesling.

No: 0

Mr. Revoldt: Motion to suspend the rules for Ordinance 75-10.

Mr. Davies moved and Mr. DeOrio seconded to **suspend the rules** for Ordinance No. 75-10

All members present voting:

Yes: Revoldt, Snyder, Davies, DeOrio, Foltz, Kiesling, Peters.

No: 0

Mr. Revoldt: Motion to adopt under the rules as suspended Ordinance 75-10.

Mr. Davies moved and Mr. DeOrio seconded to **adopt under suspension of the rules** Ordinance No. 75-10. All members present voting:

Yes: Snyder, Davies, DeOrio, Foltz, Kiesling, Peters, Revoldt.

No: 0

## REPORTS:

Mr. Revoldt: Reports – Director of Law.

Mr. Nilges: No report.

Mr. Revoldt: Director of Administration.

Mr. Benekos: No report.

Mr. Revoldt: Mayor.

Mayor Held: Yes. We have Fire Prevention Week and to celebrate that like we have in the past, October 4<sup>th</sup> which is Monday, and then also Wednesday, October 6<sup>th</sup>. We're going to have two evenings where the residents, Council members can come up to our Fire Department, familiarize themselves with our safety personnel – our Fire and EMS and our medics. And let the kids climb on the fire trucks and ask questions. So that will be 6:30 to 8:30 on Monday, October 4<sup>th</sup> and also Wednesday, October 6<sup>th</sup>. So all are welcome. And they have refreshments as well.

Mr. Revoldt: Clerk.

Mrs. Kalpac: No report.

## RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC. FORM NO. 1014R

Held Monday, September 27 7:00 p.m. 20 10

## REPORTS – COUNCIL:

Mr. Revoldt: Mr. Foltz.

Mr. Foltz: A couple things, President. I had a resident call me about several issues. I'll just put it out on the table and ask for comment from the Administration if they want. We've discussed this earlier, Phase V, obviously 7<sup>th</sup> to Applegate, the time frame, upset that the road isn't quite where it needs to be. I know we're behind with the utility companies. And we have – in our best estimates we'll be done with that project sometime in mid-November if everything goes right. I don't want to speak for the Administration, but...

Mr. Benekos: That's what we're shooting for.

Mr. Foltz: Right. Also, a concern about the temperature of asphalt when it's used for surfacing. Seems to think that's happened previously where the temperature hasn't been warm enough and it's created some deterioration there at ...inaudible... streets. I'll just put it out there. I'm sure we have inspectors looking at that as well as other people. But if the plant's making it I can't believe they'd sell it knowing that you can't put it down without there being a problem – wherever the plant...

Mr. DeOrio: Really? A business that would sell you a product that you couldn't use – my...

Mr. Foltz: Well...

Mr. DeOrio: It's amazing.

Mr. Foltz: Inaudible... it's going to come back on them. So that's on the table. Third – and I discussed this with Council Member Peters, the old Hoover Building, north of the plant, the power area, there seems to be a complaint about the startup that makes a loud noise that really affects the immediate neighborhood. That's the first I've ever heard of it. Member Peters is aware of something with the cranes, I think, with the current company involved there. But I've never had anybody come up here and discuss this in front of Council in 15 years. So I don't know how big of a problem that is, if there is one.

Mr. Revoldt: All I can tell you is that I'm in the neighborhood about a quarter till five and I'm leaving that neighborhood about 6:30. I have not heard anything.

Mr. Foltz: Okay.

Mr. Revoldt: It simply means that it just may not of occurred when I was out and about.

Mr. Snyder: Is the Power Plant working? I thought that they disassembled that.

Mr. Foltz: The resident claims it still happens. And I asked for a time and they said between 5 and 6. You know I'm asking for something that we could point to. Member Peters hasn't gotten calls or complaints on it and I don't understand what the significance of the noise. You know I haven't heard it.

Mr. Snyder: Because I think most of the tenants have all gone to individual meters. So that was the problem when it was collectively one building and that Power Plant serviced that whole plant. And when they – as they move residents they split out the electrical.

Mr. Foltz: The resident said it happened when the Hoover Plant earlier when they were fully employed there and it's happening now. So just throwing it out there for any comment or just something to keep an eye on if anybody calls.

Mr. Revoldt: Coming back – are you finished?

Mr. Foltz: Excuse me.

Mr. Revoldt: Did you have another point?

Mr. Foltz: Yea, one other point. The last thing was the gas aggregation price that we locked into. And here I guess Director Wise did that at that time. I guess there was a comparison in the paper. I missed it. I was gone over that weekend. I don't remember when it came.

Mrs. Kiesling: We're a little higher.

Mr. Foltz: Yea. And the residents always have the ability to opt-out. Correct?

Mr. Revoldt: That's correct.



## RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON REGULAR Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, September 27 7:00 p.m. 20 10

Mr. Foltz: So that's probably an exact science. It's just unfortunate that Canton had a lot lower and Massillon had a lot lower price than when we locked in.

Mrs. Kiesling: They weren't a lot lower. And I just got -- I've always opted out because I've always been able to get a lower price than our opt-in and I just got my letter in the mail today and I'm going to opt-in because now it's like sixty cents cheaper.

Mr. Foltz: Just to let you know, Canton...

Mrs. Kiesling: So it's not a bad rate.

Mr. Foltz: Canton was 5.835 cents...

Mrs. Kiesling: Right, we were 6.42?

Mr. Foltz: We were 6.41 ...

Mrs. Kiesling: 41.

Mr. DeOrio: Fifteen percent more.

Mr. Foltz: So roughly what, 58 cents...

Mrs. Kiesling: We also have less residents. So doesn't that play into it also? How many people you...

Mr. Snyder: I negotiated myself -- was that last Wednesday? And ...

Mrs. Kiesling: What did you get?

Mr. Snyder: 5.92.

Mr. Revoldt: But you have conceal carry, right?

Mr. Snyder: I did. I carry a stick of gum. But I...

Mrs. Kiesling: I may change too.

Mr. Foltz: Well whatever. I fielded the call. I'm passing it on you know...

Mr. Revoldt: Well you know I think what happens is and correct me if I'm wrong, is that you know you're looking at the quotes...

Mr. Foltz: Right.

Mr. Revoldt: And you have to make a decision whether you're going to pull the trigger.

Mrs. Kiesling: Right.

Mr. Revoldt: And the issue is if you pull it too soon you get stuck with a really high cost or the cost rises at some point. So...

Mrs. Kiesling: It's a crap shoot.

Mr. Revoldt: in many ways it's the down side of the aggregation matter is that you're really trying to fix it at a certain point.

Mr. Snyder: According...

Mr. Foltz: My suggestion would be to go with Canton with the bigger numbers, if that's possible in the future. I mean...

Mr. Snyder: Well according to the lady that I spoke to, who's the same supplier that we used, I've always used, she said it changes daily.

Mr. Foltz: Right.

Mr. Snyder: And if you're with them in one of their programs, provided you're not in one of the penalty programs, you can change it every day.

Mrs. Kiesling: Right, I've already ...inaudible...

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Mr. Snyder: And she said it's your obligation to go on the internet and check because she said every morning they're striking a new price depending on what their wholesale cost is.

Mr. Foltz: And you're right, that's the beauty of this, the residents have the ability to opt-out and try it on their own and see if they can do a better job. So...

Mr. Snyder: Yea, right. She did say you can just...

Mrs. Kiesling: Right.

1Mr. Foltz: I'm not complaining from the Foltz household, but I'm just fielding a complaint and passing it on. And maybe this year it wasn't as low as some of the other surrounding communities, but other years we've been better, I don't know on that.

Mr. Revoldt: Mrs. Revoldt prefers not to fire up the heater, we just hovel around the stove.

Mr. Snyder: You use those blue tip matches don't you?

Mr. Foltz: That's all I have. Thank you.

Mr. Revoldt: Just getting back to your one question and this is a good one, what are the optimal temperatures to place, lay asphalt? I know there is a floor temperature – 35 degrees or 40 degrees.

Mr. Benekos: 45 – 45 degrees and rising is the way it's in the spec book. It's an ODOT spec for surface asphalt. For base asphalt it's a little bit thicker and it retains more heat, you can go down a little bit in temperature. And that's all spelled out in the ODOT spec book and we spec ODOT's specs.

Mr. Revoldt: Well let's just make sure. I think you know there was some questions about South Main Street and as we move into November let's make sure that we're – we are in fact putting it down at 45 degrees or more.

Mr. Benekos: Right.

Mr. Revoldt: So we're not back out. Mr. Peters.

Mr. Peters: No report.

Mr. Revoldt: Mr. DeOrio.

Mr. DeOrio: No report.

Mr. Revoldt: Mrs. Kiesling.

Mrs. Kiesling: I just want to let the Mayor know and please tell the Police and Fire and EMS this weekend on Saturday at the football game we had a four year old go missing. And as parents we searched for probably 20 minutes. Finally got the Police involved and they were everywhere. They actually lined the pool and checked the pool because the kid could of easily gotten into the pool. Not easily, but we know how kids are. And they brought their whole task force up, brought the fire trucks up, all the guys in their bright yellow vests and they were ready to go walking the neighborhood for this little boy. So it was pretty exciting, especially when we found out the little boy was taken by family members to another field. And the dad was coaching football at the time and they thought they told him and he didn't hear them or they didn't say it. But thankfully the little boy was found, but it was probably an hour and fifteen minutes later. This poor dad was out looking with everybody – it was horrible.

Mr. Revoldt: Boy I'd like to have heard that conversation.

Mrs. Kiesling: Mom showed up too later, but oh yea, it was horrible. So but it was wonderful – they were very well prepared.

Mr. Foltz: Well a good ending.

Mayor Held: Glad to hear that. Thank you.

Mr. Revoldt: Mr. Snyder.

Mr. Snyder: Thank you Mr. President. If I may report, in the capacity as Chairman of Finance, this afternoon I was privileged to be a party a teleconference with Squires, Sanders, our bond counsel, and Omar and I apologize I don't know his last name, who is our bond underwriter. Presently the City of North Canton has several debts. You know notes and bonds that we have out. The existing bondage that we put out in 2007 is not eligible for renegotiation because it's not old enough.

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However, we have - presently carrying you know \$900,000 on a waterline that we approved. We need \$750,000 for our sewer lines and our sewer telemetry meters which are figured into the actual present day cost. On the horizon is \$685,000 for the Frank Road waterline loop and hookup. We presently owe \$700,000 on Arrowhead Country Club; \$900,000 on Main Street, 7<sup>th</sup> to Applegate. The roof on this building is way past the ability to last much longer and that was estimated at \$180,000. We're in need of a fire suppression system in this building which is mandated, as well as ADA compliance for the rear door and front doors as well as the building. The Civic Center needs a roof. These are all items which total almost near \$3,000,000. This particular last budget of 2010, we did not spend money on infrastructure on streets in most of the wards. We did, however, take \$500,000 of our capital money and pay our portion of Main Street, 7<sup>th</sup> to Applegate; leaving no money for paving or restricting of those streets. Next week with your indulgence and your permission Mr. President, Members of Council, I've asked that the Bond Counsel from Squires, Sanders come down at quarter to seven rather than 7:00, it will be on the agenda. He's preparing twelve different ordinances that would cover this and lump them in. And what's the rationale behind it? The borrowing right now - the City's borrowing rate would be between one and four percent and most of it would be amortized over a twenty-year period. It would be in interest alone and he'll figure that savings and you might want to ask that question. Unfortunately time is of the essence. As we approach the Thanksgiving holiday, bond traders and people who buy these bonds because they are tax exempt bonds, with the exception of the Arrowhead note, will be going away and they will no longer be in the market as well as interest rates who knows where they'll be. There is no possible way looking - the problem being and we asked about the Arrowhead note specifically, as some of you did and some of you have not and some of you have done in the past, sat in when the State Auditors look at our books and they're somewhat concerned but not alarmed, but they are concerned at the way we structure that debt. At the very least it's very convoluted. We owe the money but we own the note. So in essence some people call it smoke and mirrors, but actually it's there, it's paid for but we're holding it in our general fund as a note. It does restrict our borrowing ability because underwriters look at it and say well what's this? What do you mean you have a \$700,000 note but there's nothing there - but there's no money there to cover that note. So my proposal will be that that \$700,000 that comes back from Arrowhead be returned to the general fund but be marked so that it cannot be used by either by negotiation or by some creative council person or council committee for something other than what the people of North Canton intended it to do and that was to support the general fund. Along with those ordinances to come, will come an ordinance requiring that a percentage of our general fund budget, which is presently \$9,000,000, somewhere between 12 and 16 percent of our general fund budget be set aside in a rainy day fund for emergencies only and it takes an act of the Council by at least a majority vote to move that money and to use it for some particular need. It will not hamstring them only to the point that it would take four votes to move it, as well as it's not encumbered but it's there and it cannot be used for anything unless the vote is taken. These - I'm sure you have a lot of questions. Unfortunately I'm not either qualified nor at this particular time ready to answer any of those because I don't know all the answers myself. That's why we've asked him to come down. And my apologies, you'll have very short notice to have these. However, in talking to him he'll bring the ordinances with him, he'll draft the ordinances. They're very difficult, they have to be compliant to both the Ohio Revised Code and be comfortable in the bond market. He'll bring them with him on Monday, you'll have them. We'd like a committee meeting on Monday, we'd like to have a first reading the following Monday, the second reading the following Monday after that and finally a third reading giving everybody, the Council and the citizens included, at least three particular meetings to express interest. I realize people say how are you accumulating more debt. Well with the exception of the other proposal that I had to borrow the \$500,000 that we've put into Main Street from the projects that belong in the wards, you'll be borrowing no new money. The money will be amortized out over 20 years. And if you're not happy with that, well be it. But I can only tell you looking and working with the Administration, working with the Finance Director and soon be working with the two esteemed members of my committee; there'll be no money for capital projects in 2011. The wish list from the department heads in equipment alone exceeds \$690,000 over what our projected ability to do it. This \$500,000 would go into a fund, be used to repave streets like we promised the people when we passed that mill - one and one half mills Municipal Road Fund Levy. But it basically it's just putting it back to be earmarked for the Engineer and the Mayor, whoever assigns the streets to be done. But that's basically about it. I appreciate your indulgence. I hope this meets with your approval. It - it's fiscally responsible to do it now because of the cost. We're paying between three and five and a half percent interest on existing borrowings. We do need the additional money for the sewer. We need the money for Frank Road. We desperately need the money for City Hall, the Civic Center and the ADA compliance to this building and to any other building the City has. As I say, with the exception of that 700,000 and the 500,000 I'm proposing we borrow for capital projects, the street life is about 20 years so that money will be borrowed out over 20 years as well. But thanks again, Mr. President. If there's no questions or...

Mr. Revoldt: Questions or comments? Jon, would we be better off starting at 6:30?

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Mr. Snyder: We can start Mr. President as early as you like. The reason being the bond underwriter, Omar and again I apologize for not knowing his last name, has to travel from Columbus. It would be a great expense to the City. So I told – he's willing to do it obviously, he gets paid, but he'll teleconference at no charge. And our bond counsel is paid a flat rate. His fees are assessed into the bond and so he – but 6:30 would be fine. We will do like other – Mr. President, we'd only let the public be here so if they have questions ...inaudible... more than welcome to answer those questions as well.

Mr. Revoldt: 6:30.

Mr. Snyder: 6:30 is fine.

FINAL CALL FOR NEW BUSINESS:

Mr. Revoldt: Alright, final call for business. Seeing none, I'll entertain a motion to adjourn.

ADJOURN:

Mr. Davies moved and Mr. DeOrio seconded to adjourn the council meeting. All members present voting:

Yes: Davies, DeOrio, Foltz, Kiesling, Peters, Revoldt, Snyder.

No: 0

The meeting adjourned at 7:42 p.m.

  
PRESIDENT OF COUNCIL

ATTEST:

  
CLERK OF COUNCIL

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